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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,028	12/28/2001	Richard E. Smalley	11321-P012USD13	1029
26201 FISH & RICHA	7590 03/28/2007 ARDSON P.C		EXAMINER HENDRICKSON, STUART L	
P.O BOX 1022				
Minneapolis, MN 55440-1022			ART UNIT	PAPER NUMBER
			1754	
SHORTENED STATUTOR	Y PERIOD OF RESPONSE	MAIL DATE	DELIVER	Y MODE
3 MO	NTHS	03/28/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extension of their may be available under the provisors of TOPE 1138(s), in 90 period for really is specified above, the nacround statutory period will apply any will expert SIX (8) MONTHS from the mailing date of this communication. If All Provides the really is specified above, the nacround statutory period all apply and will expert SIX (8) MONTHS from the mailing date of this communication. Features to spire within the set or electron period by statute. came the application to score. ASHORNONE 03 (5.6, 13)s. Period of the communication is provided by the set of the communication, even if sinely fleat, relay reduce any security and application in sinely statute. Status 1 Responsive to communication(s) filed on 17 January 2007. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 164.166.170-174 and 196-229 is/are rejected. 5) Claim(s) 164.166.170-174.196-229 is/are rejected. 7) Claim(s) is/are allowed. 6) Claim(s) 164.166.170-174.196-229 is/are rejected. 7) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. 10) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a) (d) or (f). a) All		Application No.	Applicant(s)				
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Art Unit: 1754

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 164, 166, 170-174, 199-220 are rejected under 35 U.S.C. 102(a) and (b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kiang et al. J. Phys. Chem.

The reference teaches on pg. 3750 cut nanotubes. SWNTs are depicted, however the discussion is general. In so far as claims 173, 174 require anything beyond nanotubes, then using SWNTs in a battery/fuel cell is an obvious expedient to exploit their electrical properties.

Claims 170-174, 196-198, 206-229 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kiang et al.

The reference, supra, does not teach a battery/fuel cell/device, however using the nanotubes in these devices is an obvious expedient to exploit their well-characterized properties alluded to in col. 1.

Applicant's arguments filed 1/17/66 have been fully considered but they are not persuasive. Kiang teaches a homogeneous product, and the claims now recite the use of more than one nanotube per device. However, as it is essentially physically impossible to isolate one and only one nanotube for use, it is axiomatic that any use of the Kiang product necessarily means plural nanotubes are present. Using a known material whose properties have been characterized is an obvious expedient when the use is consistent with the properties (ie, hydrogen storage with a material known to store hydrogen). There is no reason as to why the nanotube mix of Kiang would not act as a battery/conductor etc. if the appropriate leads, etc. where hooked to them.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.

Stuart Hendrickson examiner Art Unit 1754